

REMARKS/ARGUMENTS

Reexamination and reconsideration of this application, withdrawal of the rejection, and formal notification of the allowability of all claims as now presented are earnestly solicited in light of the above amendments and remarks that follow.

Claims 21-40 are pending in the application. All the claims among claims 1-20 that were previously pending have been cancelled without prejudice or disclaimer. New independent claims 21 and 40 are presented with this response. Support for the new independent claims can be found throughout the specification, such as on pages 7, 8, 17, 18, and 24-26, as well as in Figure 3, Example 4, and in the original claims. Dependent claims 25-40 are substantially similar to one or more dependent claims originally presented in the application. New dependent claims 22 and 23 are supported, for example, on pages 7, 8, 17, and 18. New dependent claim 24 is supported, for example, in Figure 3, Example 4, and in the discussion on pages 18, 24, and 25. Applicants respectfully submit that no new matter is introduced by these amendments.

All previously pending claims of record were rejected over a combination of references that included U.S. Patent No. 5,629,525 to Counts, U.S. Patent No. 6,814,786 to Zhuang, and US 2004/02265692 to Yang, further in view of the Keith *et al.* reference. In each of the two rejections presented by the Examiner and upheld by the Board, the Examiner relied upon the Counts reference as disclosing a multi-segment filter including a tubular free-flow filter element 102 and a tubular free-flow filter 72. The Examiner relied upon the Zhuang patent as disclosing a filter segment comprising two sorbent segments 32 and a hollow mixing region 37 and opined that it would have been obvious to include such a filter configuration within the tubular free-flow filter element 102 of the Counts filter. In addition, the Examiner relied upon the Yang reference as disclosing a carbon material and opined that it would have been obvious to include the carbon material in the passage way of the tubular free-flow filter element 102 of the Counts patent. Applicants respectfully traverse these rejections as applied to the newly-presented claims.

Independent claims 21 and 40 recite that the filter includes a section of fibrous tow filter material positioned at the end of the filter element and abutting the tobacco rod. This is clearly shown in Figure 3 and described, for example, on page 7 (lines 15-25). The Counts filter

modified by the teachings of Zhuang and Yang as discussed in the previous rejections would still not result in a fibrous tow filter material abutting a tobacco rod because the Counts reference clearly requires the presence of free-flow filter 74 between the tobacco rod 60 and the filter combined plug 110. The free-flow filter 74 is intended to provide structural support at the end of the tobacco rod and to permit aerosol to be withdrawn from the interior of the tobacco rod with a minimum pressure drop. Further, the free-flow filter 74 is counted on to act as a flow constriction at the end of the tobacco rod 60, which the Counts patent alleges will promote the formation of aerosol during draw on the cigarette. See column 9, lines 6-22. Accordingly, even if one of ordinary skill in the art modifies the tubular free-flow filter element 102 in the manner contemplated in the previous rejections, the resulting filter element would still not include a fibrous tow filter material abutting a tobacco rod. For this reason, Applicants respectfully request reconsideration and withdrawal of the previous rejections as applied to the new claims.

Further, independent claim 21 recites that the compartment positioned between the two sections of fibrous tow filter material is defined and bounded by not only the two sections of filter material, but also the plug wrap circumscribing the sections of filter material. This is clearly shown in Figure 3 and described, for example, on pages 7 and 18. This recitation is clearly not taught or suggested by the modified Counts filter element relied upon in the previous rejections. In those rejections, the Examiner alleged that one of skill in the art would be motivated to place the Yang carbon material within the tubular free-flow filter element 102. However, placing the carbon material within this free-flow filter element does not result in the claimed compartment because the compartment containing the adsorbent material in such a filter would not be defined and bounded by the two sections of the filter material and a plug wrap. Instead, the compartment would be defined not by a circumscribing plug wrap, but by the tubular free-flow filter element 102. For at least this additional reason, Applicants respectfully submit that the previous rejections are inapplicable to independent claim 21 and all claims dependent thereon.

Still further, dependent claim 24 and independent claim 40 recite that the semi-permeable barrier and both sections of filter material are devoid of adsorbent material. This is clearly illustrated in Figure 3 and quite obvious from the discussion of Figure 3 on page 18. There is no

reference to any adsorbent material in any of those sections of the filter element in Figure 3. The exemplified embodiment of the filter element of Figure 3 set forth in Example 4 also does not disclose the presence of any adsorbent material residing in a section of fibrous filter material or in the semi-permeable barrier within the compartment.

This aspect of the invention is also clearly not described in the art relied upon in the previous rejections. Instead, as noted by the Examiner and relied upon by the Board, the definition of sorbent in Zhuang allegedly could be construed as including a material that “comprises” activated carbon, such as a fibrous tow that incorporates an adsorbent material, but surely would not be interpreted to include conventional fibrous tow materials devoid of any adsorbent material. As noted by the Examiner in the Examiner’s Answer, “Zhuang teaches that the filter element should comprise activated carbon, but in no manner excludes the presence of conventional materials in the construction of filter element (30).” See page 20. For at least this additional reason, Applicants respectfully submit that Claim 24 and Claim 40 are separately patentable over the cited art.

In yet another embodiment set forth in claims 22 and 23, the plug wrap, which forms at least a portion of the boundary defining the adsorbent-containing compartment, comprises a series of ventilation perforations. These perforations are clearly described, for example, on pages 7, 8, 17, 18, and in Example 4. More particularly, as noted in claim 23, the perforations can be positioned overlying the compartment. There is simply nothing in the cited art relied upon in the previous rejections to teach or suggest such an embodiment. For example, the main reference relied upon by the Examiner, the Counts patent, is silent as to any perforations in a plug wrap that at least partially defines a compartment. In fact, no plug wrap materials are utilized in the filter element portion of the Counts cigarette to serve as a boundary for a compartment at all. More particularly, the compartment relied upon by the Examiner in the previous rejections is a compartment defined by the tubular free-flow element 102. There is certainly no description of the tubular free-flow element 102 as plug wrap, and there is also no description of any ventilation perforations within the tubular free-flow element. Accordingly, these claims are also separately patentable over the previously-cited art.

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It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

/christopher m. humphrey/

Christopher M. Humphrey
Registration No. 43,683

Customer No. 00826
ALSTON & BIRD LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000
Tel Raleigh Office (919) 862-2200
Fax Raleigh Office (919) 862-2260

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